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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,499	04/06/2001	Thomas J. Meade	CIT1370-1	6828

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EXAMINER

PATEL, SUDHAKER B

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/828,499

Applicant(s)

MEADE ET AL.

Examiner

Sudhaker B. Pat I, D.Sc.T ch.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

The claims in this application are the claims 1-16.

First action on merits follows.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Following reasons apply.

3. Claims 1 in (a), claim 11, claim 5 recite: "L is -NHR R', and R, R' are independently selected from substituted- and unsubstituted- alkyl/ alkenyl/ alkynyl/ cycloalkyl/ester /alkoxy/ ether or R and R' can cooperate to form a substituted or unsubstituted heterocycle optionally having one or more double bonds." Etc. are indefinite because one can not say which atoms or heteroatoms are present in these structures, how many of each are present in the bridges or ring, what size ring(s) (where applicable) are intended and how many rings are present.

4. Claim 1 also recites in (b) the other linker that connects C1 with remaining axial ligand position (L) wherein, the linker has the formula-(CH<sub>2</sub>)<sub>n</sub>- NR''R''' wherein R and R' are independently selected...cycloalkyl; or R and R' can cooperate to form...". as: ". It is very confusing to exactly read what applicants wish to present with because: (1). R'' and R''' are not defined, (2). R and R' are defined again as defined in (a), (3). C1 position is not disclosed in the structure.

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5. Claims 1,5,11 define variables R1 – R8 as: " selected from H/ substituted- and unsubstituted- alkyl/ alkenyl/ alkynyl/ cycloalkyl/ester /alkoxy/ ether/hydrophilic organic acid, amine, alkyl amine, alcohol, and aryl". This definition is open-ended for the reasons already stated in 3. above. The definition(s) does not exactly and definitely say about the meanings. Correction is required.

6. Claim 13 recites: " R' = (C6H5)3C-. Claim 11 does not define R' = (C6H5)3C-. The group C6H5 can be straight chain or cyclic. Correction is required.

7. Claims 1, 11 are related to a method of increasing the stability in aqueous media of Cobalt(III) Schiff's base complex. The claims are indefinite because:

- The claims do not definitely describe " stability". Schiff's base has a bridge: 'CH = N- usually formed by reaction of a –CO- group with –NH2-, and the compounds obtained so are having color. There are many factors which affect the formation and stability e.g. heat, pH, presence of absence of light, heat, or concentration of the reagents themselves. Additionally, light itself has many components which consists of UV, visible, IR etc. The stability of Schiff's aq. Complex could be towards radiation(s), or in human body. Correction is required.

8. Claims 1,11 are related to process of making stable Schiff's complexes in aq. Media, but the claims do not definitely mention about the same.

9. Claims 1, 5, 9 recite: " Comprises". This is not acceptable as it includes other components.

10. Claim 9 recites:" from about three to about eight CH2 units that can bind to a first axial ligand position and a second ligand position The claim as presented is indefinite

because (1) it does not end with a full point, and (2). The word " about with a range of 3 to eight is not exact and definite.

11. In claim 15,  $L = NH_3$ , and  $R R' =$  cooperate to form imidazole. It is not very clear as to what applicants want to present with. Correction to: " the bridge -NRR'- forms a 5-membered imidazole core. Is required.

12. Claims 3, 4 recite: " R and R" or R" and R"" cooperate to for 2-methylimidazole or imidazole". It is not very clear as to whether nitrogen atoms of -NHRR' as well as-NR"R"" are involved in the ring formation or not. Correction is required.

13. In claim a group: " 2N-" is recited. It is not clear as to what is exactly represented by it. Is is -N=N- or else?

### ***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Dori Zvi et al (Wo 9006119). See synthesis procedures # 1 on page 19; # 2 on page 20 # 5 on pages 22-23.

**Conclusion**

**Allowable Subject Matter**

16. Claims 11-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


17. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art ref. Gershon et al(U.S.P. 5753698) teaches making of Cobalt 3+ complexes and their utility as method for treating cyanide poisoning. See Exaperimental details in columns 9-12 and the procedures 1-6..

18. Ref. '698 does not indicate or suggest to arrive at the instant method of stabilizing the Cobalt (II) complexes by using L as  $-NRR'$  ;  $-(CH_2)_n-CH_2-NRR'$ — forming either imidazole or 2-methylimidazole.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhaker B. Patel, D.Sc.Tech. whose telephone number is 703 308 4709. The examiner can normally be reached on 6:30 to 5:00 pm., Monday-Thursday.If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund J. Shah can be reached on 703 308 4716 or Sr. Examiner Mr. Richard Raymond at 703 308 4523. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 4556 for regular communications and 703 308 4556 for After Final communications Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1235.

SP/-

July 25, 2003

  
BRUCE KIFLE, PH.D.  
PRIMARY EXAMINER